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FORM NO. 1 FEB 58 241 REPLACES FORM 36-8 WHICH MAY BE USED (47)

LEGISLATIVE LIAISON

85 3187/1

OCT 29 1985

MEMORANDUM FOR: Deputy Chief, Legislation Division
Office of Legislative Liaison

OLL FILE

Recpt #

Legislation
Chrono

FROM: Robert W. Magee
Director of Personnel

SUBJECT: Change in Legal Protection for Alleged Malpractice
by CIA Medical Personnel Under S. 492

REFERENCE: Your memorandum, same subject, dated 24 October 1985
(OLL 85-3187), with draft letter attached

1. We have reviewed the draft letter forwarded by Reference. We agree with the position taken in the letter that all federal employees should be freed from the specter of being sued and facing personal financial liability for alleged constitutional torts caused by or arising from acts (or omissions) performed within the scope of their official duties. We also agree that the protection in existing law for CIA medical personnel against suit or personal liability for alleged malpractice should be preserved in full--i.e., 10 U.S.C. Section 1089(a) should be retained, not repealed.

2. We suggest the following technical and/or stylistic corrections and changes in the letter, however:

a. Revise sentence 2, paragraph 1 to read, "The purpose of this legislation is to protect federal law enforcement and investigative personnel from personal liability for acts or omissions allegedly in violation of the Constitution, performed while acting within the scope of their official duties."

b. Revise sentence 1, paragraph 2 to state, "Senior CIA officials have been subject to numerous constitutional tort suits in the past."

c. Revise sentence 2, paragraph 2 to begin, "This threat of personal liability exposure . . ."

d. Revise the final sentence of paragraph 2 to say, "Fundamental national security decisions should not be distorted by the specter of personal liability."

e. Revise the last sentence of paragraph 3 to read, "Furthermore, it appears that little or no protection is afforded to CIA doctors working in the United States."

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 Robert W. Magee

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(28Oct85)

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